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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,150	02/05/2001	Fumio Nagumo	450108-02376	2773
20999	7590	08/08/2006		
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER	HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/700,150	NAGUMO, FUMIO
	Examiner Michael W. Hoye	Art Unit 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 June 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 17-30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 17-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed June 19, 2006 have been fully considered but they are not persuasive.

Regarding amended independent claim 17, the Applicant argues on page 7 that, "Independent claim 17 has been amended to recite:

wherein said control means, at the viewers request, and in response to viewer operation of the condition setting means causes the transmission of commercial related information to be transmitted from a commercial related information memory

Support for this feature can be found on pages 25 and 26 of the application as filed. In this manner, a viewer wishing to learn more about a product shown in a commercial can request that the commercial related information be transmitted and displayed. Examples provided in the specification include the price of a shown automobile, number of models offered by a car maker, methods of payment, etc. It is respectfully submitted that the relied upon portions of Zigmond do not teach such a feature of the control means."

In response, the Examiner respectfully disagrees because Zigmond clearly teaches the newly amended claim language, as stated above, in col. 18, line 38 – col. 19, line 23, where a "cross-over" link may be presented to the viewer, which offers the viewer access to further information relating to the topic or subject that is simultaneously displayed on the video programming of display device 58. More specifically, the additional information may include information relating to the program description, or topics, dialog, persons, brand names, etc., that

appear in the video programming feed 52, and the information is transmitted from a programming database.

Regarding amended independent claim 24, the Applicant argues on page 7 that, “independent claim 24 has been amended to recite steps of:

requesting through operation of a condition setting means the display of commercial related information; and transmitting the commercial related information from a commercial related information memory

Again it is submitted that the relied upon portions of Zigmond do not teach such steps.”

In response, the Examiner respectfully disagrees because Zigmond clearly teaches the newly amended claim language, as stated above, in col. 18, line 38 – col. 19, line 23, where a “cross-over” link may be presented to the viewer, which offers the viewer access to further information relating to the topic or subject that is simultaneously displayed on the video programming of display device 58. More specifically, the additional information may include information relating to the program description, or topics, dialog, persons, brand names, etc., that appear in the video programming feed 52, and the information is transmitted from a programming database.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 17-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al (USPN 6,698,020).

Regarding claims 17 and 24, Zigmond discloses an information receiving device and method for receiving separately transmitted program information and commercial information with the program (see fig 4 and fig 5). It is noted that the commercial delivery and program delivery are separate but from the same source i.e. the advertisement content provider is the same as the video programming content provider (see col. 8, lines 17 - 20). Zigmond further discloses transmitting and receiving commercial information and program information over a satellite communication channel or 'first channel'. Zigmond further discloses "In one implementation, ad source 62 transmits advertisement streams 64 only periodically over satellite 134, in which case, a device such as advertisement repository 86 of FIG. 5 may be used to store the transmitted advertisements for later selection and display" (see col. 17, line 50 - col. 18 line 13). Thus, Zigmond discloses receiving the commercial information before the program information.

Zigmond further teaches a user can set the rules for displaying a commercial (col. 11, lines 50-54) and thus discloses the claimed 'condition setting means for a viewer to set display conditions for the commercial information'.

It is further noted that the set of rules are inherently formed by control means for forming control data as necessary for controlling commercial insertion (see col. 11, lines 50-54).

Zigmond further discloses a video switch 68 located in ad insertion device 60 (see Fig. 4) for selectively selecting the commercial and program to form a combined output signal for display on display 58.

Zigmond further discloses a transmission means and the user side for transmitting control data to a source company which transmits the program information and the commercial information (see col. 4, lines 55-65, col. 7, lines 57-67, col. 11, lines 48-58, col. 15, lines 2-16).

Zigmond further discloses wherein said control means, at the viewers request, and in response to viewer operation of the condition setting means causes the transmission of commercial related information to be transmitted from a commercial related information memory as met by col. 18, line 38 – col. 19, line 23, where a “cross-over” link may be presented to the viewer, which offers the viewer access to further information relating to the topic or subject that is simultaneously displayed on the video programming of display device 58. More specifically, the additional information may include information relating to the program description, or topics, dialog, persons, brand names, etc., that appear in the video programming feed 52, and the information is transmitted from a programming database.

Regarding claims 18 and 25, Zigmond discloses an advertisement repository 86 (Fig. 5) for storing or recording the commercial information.

Regarding claims 19 and 27, Zigmond discloses the advertising rules can be selected by the information provider (see col. 11, lines 50-54) and also discloses the advertisers can target ads (see col. 9, lines 24-38).

Regarding claims 20 and 26, Zigmond discloses charging a fee based on blocking of commercials (see col. 14, lines 25-35).

Regarding claims 21 and 28, Zigmond discloses a user can block all advertisements all together (see col. 14, lines 28-32) thus indicating a ratio of 1 to 0 i.e. programming to advertisements.

Regarding claims 22 and 29, Zigmond discloses charging a fee for blocking commercials and thus discloses the claimed ‘display conditions indicate the commercial information should not be combined with the program information’ (see col. 14, lines 25-35).

Regarding claims 23 and 30, Zigmond discloses the claimed ‘display conditions indicate classifications of the commercial information which should be combined with the program information’ (see ‘certain goods and services’ in col. 14, lines 36-48 and a specify a viewer’s hobbies, interests, spending habits, and anticipated major purchases in col. 10, lines 60-64).

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is **571-272-7346**. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

**Any response to this action should be mailed to:**

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop \_\_\_\_\_  
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P.O. Box 1450  
Alexandria, VA 22313-1450

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**Or faxed to: 571-273-8300**

**Hand-delivered responses should be brought to the Customer Service Window at the address listed above.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Michael W. Hoye  
August 3, 2006



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600